

Notice of Allowability

Application No.

10/075,362

Examiner

Sow-Fun Hon

Applicant(s)

SHIMIZU ET AL.

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the supplemental amendment dated 08/12/04.
2. ☒ The allowed claim(s) is/are originally 1,3-9,11,14-16 and 18-21 renumbered 1, 2-8, 9, 10-12, 13-16.
3. ☒ The drawings filed on 14 February 2002 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>8/12/04</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

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EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with Don Lucas on August 12, 2004.

The application has been amended as follows:

3. In the supplemental amendment dated 08/12/04:
 - a. Claim 11: Replace "(Currently Amended and Withdrawn)" with - - (Currently Amended) - -;
 - b. Claim 15: Replace "(Currently Amended and Withdrawn)" with - - (Currently Amended) - -.
4. Claims 1, 3-9, 19-21 are directed to an allowable product. Pursuant to the procedures set forth in the Official Gazette notice dated March 26, 1996 (1184 O.G. 86), present claims 11, 14-

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16, 18 are directed to the process of making or using the patentable product, previously withdrawn from consideration as a result of a restriction requirement, and are now subject to being rejoined.

5. Process claims 11, 14-16, 18 are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

6. Claims 1, 3-9, 11, 14-16, 18-21 are allowed.

7. Claims 2, 10, 12-13, 17 are cancelled.

8. The following is an examiner's statement of reasons for allowance:

(a). The declaration under 37 C.F.R. 1.132, dated 07/29/04, shows comparative data demonstrating a marked contrast in terms of the four physical properties of the film being evaluated:

(i) moisture vapor transmittance, (ii) rate of weight change, (iii) rate of dimensional change and (iv) optical retardation, between the comparative group of additive compounds consisting of TPP, dimethyl phthalate, diethyl phthalate and dimethoxy-ethyl phthalate, and Applicant's group of additive compounds consisting of dicyclohexyl phthalate, compounds 1-12,

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1-14, 1-17 and 1-28, as defined in Applicant's specification (pages 18-19). US 5,809, 834

teaches the first comparative group of additive compounds consisting of TPP, dimethyl

phthalate, diethyl phthalate and dimethoxy-ethyl phthalate, and US 2,412,611 teaches said first

comparative group of additive compounds and dicyclohexyl phthlate.

The showing of unexpected results demonstrates that it would not have been routine experimentation for one of ordinary skill in the art to have used the second group of compounds in place of the first group of compounds, as a compound additive in the cellulose ester film containing 0.0001 to 0.3 % by weight of particles in the cellulose ester film of '611.

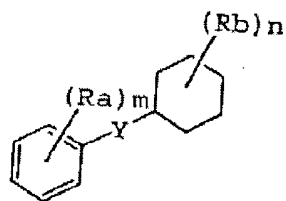
b. The declaration under 37 C.F.R. 1.132, dated 03/16/04, shows that the range of from 0.0001 to 0.3 % is critical in providing an optical haze of lower than 0.5 %.

Therefore the cited prior art of record, US 5,806,834 or US 2,364,112, even in combination with US 2,412,611 or US 3,391,296, fails to teach or suggest the combination on the next two pages.

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A cellulose ester film comprising particles in an amount of from 0.0001 to 0.3% by weight and a compound represented by the following formula (1) in an amount of 1 to 30% by weight

formula (1)



wherein Y represents an ester bond or $-R^1C(=O)O-$, $-C(=O)OR^2-$, $-C(=O)O-R^3-OC(=O)-$ or $-OC(=O)-R^4-C(=O)O-$, in which R^1 and R^2 independently represent a substituted or unsubstituted alkylene group, and R^3 and R^4 independently represent a substituted or unsubstituted alkylene group, or $-(R^5O)_pR^5-$, in which R^5 represents a substituted or unsubstituted alkylene group, and p is an integer of from 1 to 3; Ra and Rb independently represent an alkyl group, $RcC(=O)O-$ or $-C(=O)ORc$ in which Rc represents a substituted or

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unsubstituted phenyl group or a substituted or unsubstituted cyclohexyl group; and m and n independently represent an integer of from 0 to 5, provided that when m or n is not less than 2, plural Ras or Rbs may be the same or different; and wherein the cellulose ester film has a thickness of from 10 to 60 μm , a moisture vapor transmittance of from 20 to 200 $\text{g}/\text{m}^2 \cdot 24 \text{ hr}$, and a rate of weight change falling within the range of $\pm 2\%$ in which the rate is represented by the ratio of the difference between the film weights before and after storage at 80°C and 90% RH for 48 hours to the film weight before the storage.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication should be directed to Sow-Fun Hon whose telephone number is (571)272-1492. The examiner can normally be reached Monday to Friday from 10:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (571)272-1498. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SH

Sow-Fun Hon

08/13/04


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

8/13/04